

**REMARKS**

Claims 1-43 are pending. By this Amendment, Claims 1, 9, 18, 21-22, 25, 29 and 35 are amended, Claims 6 and 13 are withdrawn, Claims 44 and 45 are added, and Claims 33 and 39-43 are cancelled, thereby leaving Claims 2-5, 7-8, 10-12, 14-17, 19-20, 23-24, 26-28, 30-32, 34 and 36-38 unchanged.

The Examiner requests confirmation of the election made via telephone on August 23, 2004 and requests a listing of claims readable on the elected species. Accordingly, Applicant elects Species II, Figs. 14-44, to prosecute in this patent application. Applicant agrees with the Examiner that Claims 1-5, 7-8, 10-12, 17-37, 39-41 and 43 are generic, that Claims 6, 13 and 42 read on Species I and that Claims 9, 14-16 and 38 read on Species II. In view of the amendments, cancellations and additions of claims, Applicant hereby submits that Claims 1-5, 7-12, 14-32, 34-38 and 44-45 read on elected Species II, Figs. 14-44.

The specification is objected to because of informalities. More particularly, the Examiner indicates that reference number 180' should read 185' on lines 16 and 19 of page 17. Applicant respectfully submits that the Examiner's assertion is correct. In addition to the Examiner's assertions, reference number 180' should be changed to reference number 185' in several other locations on pages 17 and 18 and the word "member" should be changed to "end" in those same locations. Applicant has corrected the specification on pages 17 and 18 in view of the Examiner's assertions and in view of the informalities found by the Applicant. In view of these corrections, the objection to the specification is overcome. No new matter has been added.

Applicant wishes to thank the Examiner for the indication of allowable subject matter in Claims 4-5, 9, 12, 14-16, 30-32 and 38. With regards to the matter identified by the Examiner as allowable, Applicant has rewritten Claim 9 into independent form to include all of the limitations of the base claim (Claim 1) and any intervening claims (none). Accordingly, independent Claim 9 is allowable.

**35 U.S.C. §102(b) Rejections**

Claims 1-3, 7-8, 11, 17, 19, 21-26, 33-34, 36-37, 39-41 and 43 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,542,183 ("Allison"). Claims 1-3, 7, 10, 17-29, 34-36, 39-41 and 43 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,662,796 ("Batistelli").

Independent Claim 1

Independent Claim 1 stands rejected in view of both Allison and Batistelli.

Independent Claim 1 recites (italics added for emphasis):

A saw comprising:  
a housing;  
a motor supported by the housing and operable to drive a saw  
blade;  
*a cover selectively connectable to the housing, the cover at least partially covering the saw blade when the cover is connected to the housing; and  
a quick-locking member connected to one of the housing and the cover and engageable with the other of the housing and the cover to selectively lock the cover to the housing without the use of tools, the cover being locked to the housing during operation of the saw.*

Allison discloses a fire fighter device 2 including telescoping tubular sections 14 and 16, a motor casement 20 at an outer end of the tubular section 16, a motor 100 contained within the motor casement 20, a blade 22 rotated by the motor 100, a plurality of fan sections 24 and 26 for shielding the blade 22 and including segments 86 that telescope within each other, and a blade cover 132. The motor casement 20 includes two depressed indentations 120 and 122 on each side for receiving spring clamps 124 and 126 of the blade cover 132. The blade cover 132 can be placed over the blade 22 *when the tool is not in use* (Col. 6, lines 3-5).

Allison does not teach or suggest, among other things, a saw including a housing, a cover, and a quick-locking member to selectively lock the cover to the housing without the use of tools, the cover being locked to the housing during operation of the saw. Rather, Allison discloses a fire fighter device 2 including a cover 132 connected to a motor casement 20 when the device 2 is not in use. Not only does Allison lack the teachings of independent Claim 1, but Allison actually teaches away from the subject matter of Claim 1. "A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 220 U.S.P.Q. 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984); MPEP §2141.02. More particularly, Allison teaches that the cover 132 is positioned on the device 2 when the device is not in use and independent Claim 1 recites the cover being locked to the housing during operation of the saw. Due to the necessity of considering Allison in its entirety and the fact that cover 132 can only be

used when the device 2 is not in use, one can only conclude that Allison teaches away from using the cover 132 when the device 2 is in use, and therefore, Allison cannot disclose the claimed subject matter of independent Claim 1. For these and other reasons, independent Claim 1 is allowable over Allison. Dependent Claims 2-5, 7-8, 10-12, 14-17 and 19-20 depend from independent Claim 1 and are allowable over Allison for the same and other reasons.

The Examiner also rejected independent Claim 1 in view of Batistelli. Batistelli discloses a rotary saw 11 including a housing 12 containing a motor, a blade 13 driven by the motor, an upper saw blade guard 16 attached to a flange 15 of the housing 12, and a transparent, semi-circular deflector 31 attached to a flange 28 of the upper saw guard 16 by three screws 32, which fixedly attach both the saw guard 16 and the deflector 31 to the housing 12. As seen in Fig. 2, the deflector 31 includes slots 33 through which a tool, such as a screw driver, can extend to engage the screws 32 to loosen and tighten the screws 32. Removal and tightening of the three screws 32 with a screw driver is labor intensive and not quick.

Batistelli does not teach or suggest, among other things, a saw including a housing, a cover, and a quick-locking member to selectively lock the cover to the housing without the use of tools. Rather, Batistelli discloses a plurality of screws 32 having heads thereof positioned with deflector 31 and being accessible only with tools, such as a screw driver, through slots 33 (see Fig. 2).

The Examiner contends that the screws 32 can be released with a user's fingernail if so desired. Applicant, along with people of ordinary skill in the art, respectfully disagree with the Examiner's contention for two reasons. Firstly, the slots 33 have a similar size to the head of the screws 32 and are too small to allow access therethrough with a user's finger. Secondly, a circular saw is exposed to rough environments and undergoes extreme vibration during normal operating conditions, and the extent to which a user could tighten a screw with his/her fingernail, would not be sufficient to allow proper operation of the saw 11, the blade guard 16 and the deflector 31. In reality, the blade guard 16 and deflector 31 would fall off of the saw 11 after a few operations.

The Examiner also contends that the term "without the use of tools" does not define any structure. Assuming arguendo that this statement is valid, nevertheless, the term "without the use of tools" is subject matter of Claim 1. In general, claims are interpreted by all subject matter contained therein. That is, if one of ordinary skill in the art was interpreting the scope of a claim, all subject matter of the claim would be considered in such an interpretation. Accordingly, the

term "without the use of tools" is part of Claim 1 and can be used to differentiate Claim 1 from Batistelli.

For these and other reasons, Claim 1 is allowable over Batistelli. Dependent Claims 2-5, 7-8, 10-12, 14-17 and 19-20 depend from independent Claim 1 and are allowable over Batistelli for the same and other reasons.

Accordingly, independent Claim 1 is allowable over the references of record and dependent Claims 2-5, 7-8, 10-12, 14-17 and 19-20 depend from independent Claim 1 and are allowable over the references of record for the same and other reasons.

#### Independent Claim 18

Independent Claim 18 stands rejected in view of Batistelli.

Independent Claim 18 recites (*italics added for emphasis*):

A saw comprising:  
a housing;  
a motor supported by the housing and operable to drive a saw blade;  
a cover selectively connectable to the housing, the cover at least partially covering the saw blade when the cover is connected to the housing; and  
a quick-locking member connected to one of the housing and the cover and engageable with the other of the housing and the cover to selectively lock the cover to the housing without the use of tools;  
wherein *the cover defines a receptacle therein operable to hold fragments* of a work piece upon which the saw blade is performing work, fragments being moved into the receptacle by the saw blade as the saw blade rotates during operation.

Batistelli does not teach or suggest, among other things, a saw including a quick-locking member (for the reasons set forth above with reference to the discussion above of independent Claim 1) and a cover that defines a receptacle therein operable to hold fragments of a work piece upon which the saw blade is performing work, fragments being moved into the receptacle by the saw blade as the saw blade rotates during operation. Rather, Batistelli discloses a deflector 31 connected to an upper guard 16 and deflects sawdust of a work piece created during the sawing operation. The deflector 31 does not hold fragments of a work piece. In fact, Batistelli teaches away from a cover defining a receptacle operable to hold fragments of a work piece. With reference to Col. 3, lines 23-26, any sawdust thrown outwardly along, for example, a line 40

(Fig. 4) will be caught by the flange 34 or the curved wall 41 of the deflector [31] and *will drop harmlessly down* away from the operator's face (*italics for emphasis*). For these and other reasons, Batistelli does not teach or suggest the subject matter of independent Claim 18. Accordingly, independent Claim 18 is allowable.

#### Independent Claim 21

Independent Claim 21 stands rejected in view of both Allison and Batistelli.

Independent Claim 21 recites (*italics added for emphasis*):

A method of disassembling a saw, the saw including a housing, a motor supported by the housing and operable to drive a saw blade, a cover connectable to the housing and at least partially covering the saw blade when the cover is connected to the housing, and a locking member connected to one of the housing and the cover and engageable with the other of the housing and the cover to selectively lock the cover to the housing, the method comprising the acts of:  
providing the saw with the cover connected to the housing, *the cover being connected to the housing during operation of the saw*;  
*moving the locking member* from a first position, in which the locking member engages the one of the housing and the cover to lock the cover to the housing, to a second position, in which the cover is not locked to the housing, *without the use of tools*; and  
removing the cover from the housing to at least partially uncover the saw blade.

Allison does not teach or suggest, among other things, a method including providing a saw with a cover connected to the housing, the cover being connected to the housing during operation of the saw. Rather than re-present the arguments with respect to the contention that Allison does not teach or suggest a cover connected to a housing of a saw during operation of the saw, Applicant refers to the discussion above of independent Claim 1 relating to this contention. For these and other reasons, Allison does not teach or suggest the subject matter of independent Claim 21.

Batistelli does not teach or suggest, among other things, a method including providing a saw with a cover connected to a housing, the cover being connected to the housing during operation of the saw, and moving a locking member from a first position to a second position without the use of tools. Rather than re-present the arguments with respect to the contention that

Batistelli does not teach or suggest a locking member movable without the use of tools, Applicant refers to the discussion above of independent Claim 1 relating to this contention. For these and other reasons, Batistelli does not teach or suggest the subject matter of independent Claim 21.

Accordingly, independent Claim 21 is allowable over both Allison and Batistelli and over the other references of record.

#### Independent Claim 22

Independent Claim 22 stands rejected in view of both Allison and Batistelli.

Independent Claim 22 recites (*italics added for emphasis*):

A saw comprising:  
a housing;  
a motor supported by the housing and operable to drive a saw blade;  
a first cover connected to the housing, the first cover at least partially covering the saw blade; and  
a second cover selectively connectable to the housing, the second cover *completely covering* the first cover and at least partially covering the saw blade when the second cover is connected to the housing.

Allison does not teach or suggest, among other things, a saw including a housing, a first cover connected to the housing, and a second cover selectively connectable to the housing and completely covering the first cover when the second cover is connected to the housing. Rather, Allison discloses a fire fighter device including a plurality of fan sections 24 and 26 connected to the motor casement 20 and a cover 132 connected to the motor casement 20. With reference to Fig. 31, the device is clearly depicted with the cover 132 only covering a small portion of the fan sections 24 and 26. Accordingly, Allison does not teach or suggest the subject matter of independent Claim 22.

Batistelli does not teach or suggest, among other things, a saw including a housing, a first cover connected to the housing, and a second cover selectively connectable to the housing and completely covering the first cover when the second cover is connected to the housing. Rather, Batistelli discloses saw 11 including an upper guard 16 attached to the housing 12 of the saw 11 and a deflector 31 attached to a flange 28 of the upper guard 16. With reference to Figs. 1 and 2,

deflector 31 is clearly depicted as not completely covering the upper guard 16. Accordingly, Batistelli does not teach or suggest the subject matter of independent Claim 22.

Accordingly, Independent Claim 22 is allowable over both Allison and Batistelli and over the other references of record. Claims 23-28 and 34-38 depend from independent Claim 22 and are allowable for the same and other reasons.

#### Independent Claim 29

Independent Claim 29 stands rejected in view of Batistelli.

Independent Claim 29 recites (*italics added for emphasis*):

A saw comprising:  
a housing;  
a motor supported by the housing and operable to drive a saw blade;  
a first cover connected to the housing, the first cover at least partially covering the saw blade; and  
a second cover selectively connectable to the housing, the second cover at least partially covering the first cover and at least partially covering the saw blade when the second cover is connected to the housing;  
wherein *the second cover defines a cavity for receiving fragments* from a work piece upon which the saw blade operates.

Batistelli does not teach or suggest, among other things, a saw including a housing, a first cover connected to the housing, and a second cover selectively connected to the housing, the second cover defining a cavity for receiving fragments from a work piece upon which the saw blade operates. Rather than re-present the arguments relating to the contention that Batistelli does not disclose a cover defining a cavity for receiving fragments from a work piece, Applicant refers to the discussion above of independent Claim 18 relating to this contention. For these and other reasons, Batistelli does not teach or suggest the subject matter of independent Claim 29. Accordingly, independent Claim 29 is allowable. Claims 30-32 depend from independent Claim 29 and are allowable for the same and other reasons.

Independent Claim 44

Independent Claim 44 recites (italics added for emphasis):

A saw comprising:  
a housing;  
a motor supported by the housing and operable to drive a saw blade;  
a cover selectively connectable to the housing, the cover at least partially covering the saw blade when the cover is connected to the housing; and  
a quick-locking member connected to one of the housing and the cover and engageable with the other of the housing and the cover to selectively lock the cover to the housing without the use of tools, *the quick-locking member being pivotable* between a first position, in which the cover is locked to the housing, and a second position, in which the cover is not locked to the housing.

None of the references of record teach or suggest, among other things, a saw including a quick-locking member being pivotable between a first position and a second position.

Accordingly, Independent Claim 44 is allowable.

Independent Claim 45

Independent Claim 45 recites (italics added for emphasis):

A saw comprising:  
a housing;  
a motor supported by the housing and operable to drive a saw blade;  
a cover selectively connectable to the housing, the cover at least partially covering the saw blade when the cover is connected to the housing;  
a quick-locking member connected to one of the housing and the cover and engageable with the other of the housing and the cover to selectively lock the cover to the housing without the use of tools, the quick-locking member being movable between a first position, in which the cover is locked to the housing, and a second position, in which the cover is not locked to the housing; and  
*a spring engagable with the quick-locking member to releasably retain the quick-locking member in the first position.*

None of the references of record teach or suggest, among other things, a saw including a quick-locking member movable between a first position and a second position, and a spring



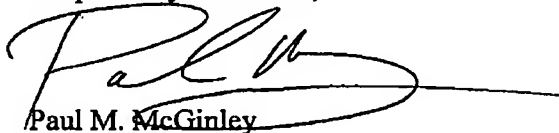
engagable with the quick-locking member to releasably retain the quick-locking member in the first position. Accordingly, independent Claim 45 is allowable.

### CONCLUSION

In view of the foregoing, entry of the present Amendment, re-entry and reconsideration of the withdrawn claims and allowance of Claims 1-32, 34-38 and 44-45 are respectfully requested.

The undersigned is available for telephone consultation during normal business hours.

Respectfully submitted,

  
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